

Testimony of
Judge (Retired) Kenneth Johnson

Subcommittee on Criminal Justice,
Drug Policy, and Human Resources
(Government Reform Committee)

May 2, 2005

Mr. Chairman, thank you for inviting me to testify today before your Committee at this important hearing. It is indeed an honor and a privilege to be allowed to share my views with you. In your letter to me dated April 27, 2005, you stated that this hearing was entitled: "How can the Federal Government Support Local and State Initiatives to Protect Citizens and Communities Against Drug-Related Violence and Witness Intimidation?"

On Sunday, June 21, 1992, I published an article in the Baltimore Sun, opinion section entitled "The War on Drugs Is Mostly Eyewash". A copy of that article is attached hereto as Exhibit #1. Please allow me to read a brief portion from that article:

If society postpones the war on drugs much longer, drugs will destroy our institutions. The level of corruption will have so thoroughly infested and corrupted all levels of society as to prevent any effective eradication by law enforcement.

Already we have begun to notice the bribery and murder of potential witnesses and police officers to prevent criminals from being tried and convicted. We also know that the profits from the illegal drug trade contribute substantially to the economy. In the not too distant future, we will see the bribery and murder of prosecutors, jurors and judges in order to protect drug profits.

When this day comes, the law of the streets will govern and our government will be too weak to regain effective control. The public will cry out, demanding that something be done; it will be more than willing to abandon constitutional liberties in an effort to confront and control the drug trade. Given the sorry state of our present political leadership, there is little hope that our future political leaders would resist the sacrifice of civil liberties to the desperation fostered by the pain and ravages of the drug trade. The time to confront and control the drug trade is now.

As a result of my publishing the subject article and my campaign to make our Nation aware of what will confront us if we did not address the illegal drug problem at that time, my life was threatened on a number of occasions and my family was endangered.

As defendant was arrested, pled guilty, and convicted. He was given an extremely lenient sentence. Although at the time of his arrest, he had a 9 mm handgun with a silencer and my photograph. An "X" had been placed on my photograph with the words: "Kill this one".

On May 11, 1992, I asked a Baltimore City Grand Jury to investigate the illegal drug trade and to determine why the importer-wholesaler drug dealers were not being pursued and prosecuted. The Grand Jury concluded that there was a major problem with the enforcement of the laws relating to the illegal drug trade. A copy of the Grand Jury Report, which contains my Charge to it, is attached hereto as Exhibit #2.

Attorney Tim Baker, the United States Attorney for the District of Maryland from 1978 to 1981, published an article in the Baltimore Sun on Monday, July 26, 1993, entitled: "A Rouge Judge and a Runaway Jury". Of course, I was the referenced "Rouge Judge" and the Grand Jury that I asked to investigate the illegal drug trade was the "Runaway". Mr. Baker who had little experience as a lawyer and, apparently, did not understand the ravages and devastation caused by the illegal drug trade, or perhaps, simply chose to ignore it. A copy of Mr. Baker's subject article is attached hereto as Exhibit #3. Some public officials of Baltimore City also criticized me and the Grand Jury for our efforts with reference to the illegal drug trade. And, the Maryland State Prosecutor found little merit in the Grand Jury's Report.

Sadly, Mr. Chairman, the predictions that I made in that article have largely come true. It is my belief that if Federal, State and Local officials had taken the Grand Jury Report and my statements against the illegal drug trade seriously and had taken actions to combat it, we would not be in the desperate position that we are in today.

The problems of violence and witness intimidation brought on by the illegal drug trade are national in scope. It will take a national coordinated and funded effort to confront and solve the drug problem. The so-called war on drugs never was fought and is not now spoken of. Its numerous failings including the filling of our prisons and the ruining of countless young lives by arrest and criminal convictions are still with us. It has been a major factor in the breakdown of family life. In addition, there was and is a racial component to our drug enforcement policies. That is, for white drug addicts, the criminal justice system views their addiction as a medical problem but views the black drug addicts as a criminal problem. Not only is this policy view

unjust, it has and continues to hinder effective law enforcement. I believe the federal government must support the state and local levels to make enforcement consistent.

The rule of law and our institution have been weakened by the illegal drug trade. Our criminal justice system is becoming dysfunctional. The enormous flow of cash from the illegal drug trade, undetected, unaccounted for and unregulated has spiraled corruption that hinders effective law enforcement and has increased violence. It has also contributed to the unraveling of the social contract between us, the devaluing of life, and the disrespect for the rule of law, all remarkably similar to the effects of Prohibition. We would do well to remember that the Roman Empire was not felled by outside sources but was destroyed from within.

I am deeply concerned that in our efforts to address the problems created by the illegal drug trade that we do not abandon our constitutional rights in the process. The right of an accused person to confront his accuser is an integral part of the due process of the law. In denying the accused that right, we run the risk of convicting an innocent person. And, the loss of the criminal's constitutionally protected rights will result in the loss of the constitutionally protected rights of everyone.

We can and must create a society where the desire to use illegal drugs will decrease. We can set a course in that direction by reducing poverty, increasing education and job opportunities and by treating drug addiction as more of a medical problem than a criminal problem.

The Federal Government must guarantee and demonstrate that all witnesses, federal, state and local, will be protected from any harm from any source. When it does so, witnesses will know it and will voluntarily come forward.

Mr. Chairman, I urge you and your Committee to sound the alarm on the illegal drug trade. It is a cancer on our society. A band-aid on a cancer has never been known to cure it. A new, bold and sustained effort by the Federal Government is urgently needed. You and your Committee can begin that effort. I strongly recommend that a national commission be created to look into the illegal drug trade. The Ketauver Commission and the Kerner Commission could be used as a model for such a commission.

Thank you very much for allowing me to appear before you today. I have attached hereto my Biographical Summary and some of my published newspaper opinions as Attachment A hereto for your review.

Kenneth Lavon Johnson